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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,797	02/07/2002	Jeffrey Rodman	199-0093US	3595
29855 7590 03/14/2008 WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P. 20333 SH 249 SUITE 600 HOUSTON, TX 77070				
EXAMINER PYZOCHA, MICHAEL J				
ART UNIT 2137		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/072,797

Applicant(s)

RODMAN ET AL.

Examiner

MICHAEL PYZOSHA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 21-40 are pending.
2. Amendment filed 04/20/2007 has been received and considered.

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification makes no description of the claimed limitation of "wherein the encryption key signal does not penetrate walls of the room".

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 21-40 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to reasonably convey to one

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skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 21 recites, "wherein the encryption key signal does not penetrate walls of the room," nowhere in the specification is there a description of signals not penetrating the walls, it merely states that the signals "do not easily penetrate conference room walls". The mere absence of a positive recitation is not basis for an exclusion (see MPEP 2173.05(i)).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 21, 22, 24, 25, 30-37, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneier (Applied Cryptography) in view of Parry (US20020164997) and further in view of Amitay et al. (US 5684801).

As per claims 21, 30, 31, 37 and 44, Schneier discloses generating a first encryption key within a first device of a communication system; encoding the encryption key to form an encoded encryption key; transmitting the encoded encryption key to a second device (see page 33 step (2)); decoding the encoded encryption key at the second device to extract the encryption key (see page 33 step (3)); and using the encryption key to encrypt and decrypt data for subsequent transmissions between the first and second devices (see page 33 step (4)).

Schneier fails to disclose the transmission is wireless and that the devices are contained by walls of a room and that the encoded encryption key is not detectible outside of the walls of the room and the subsequent transmissions are capable of penetrating the walls of the room.

However, Parry teaches a wireless transmission system in which access is only allowed to those confined by the walls of the room and the subsequent transmissions are capable of penetrating the walls of the room (see paragraphs 7, 8, 32, and 55).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to transmit the encoded encryption key of Schneier using the wireless transmission system of Parry.

Motivation to do so would have been to prevent unauthorized access to data in the wireless system (see Parry paragraph 32).

The modified Schneier and Parry system fails to disclose that the encryption key signals that are confined within the room do not penetrate the walls of the room.

However, Amitay et al. teaches the use of signals that do not penetrate the walls of a room (see column 2 lines 42-61).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the signals of Amitay et al. in the modified Schneier and Parry system.

Motivation to do so would have been to increase the security (see Amitay et al. column 2 lines 42-61).

As per claims 22 and 32-35, the modified Schneier, Parry, and Amitay et al. system discloses the use of an acoustic signal (see Parry figure 7 and paragraph 49).

As per claim 24, the modified Schneier, Parry, and Amitay et al. system discloses the use of infrared communications (see paragraph 25).

As per claims 25 and 36, the modified Schneier, Parry, and Amitay et al. system discloses the use of memory to store the encryption key (see Parry paragraph 21).

8. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Schneier, Parry, and Amitay et

al. system as applied to claim 22 above, and further in view of Stein, III et al. (US 6297892).

As per claim 23, the modified Schneier, Parry, and Amitay et al. system fails to explicitly disclose that the acoustic signal comprises DTMP tones.

However, Stein, III et al. teaches such an acoustic signal (see column 3 lines 45-53).

At the time of the invention it would have been obvious to a person of ordinary skill in the art for the acoustic signals of the modified Schneier, Parry, and Amitay et al. system to be DTMF tones.

Motivation to do so would have been to allow for recognition by a phone or fax (see Stein, III et al. column 3 lines 45-53).

9. Claims 26, 27, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Schneier, Parry, and Amitay et al. system as applied to claim 21 above, and further in view of Doberstein et al. (US 5809148).

As per claims 26, 27, and 29, the modified Schneier, Parry, and Amitay et al. system m fails to explicitly disclose determining when a request for retransmission, because of an error occurred in connection with the reception or decoding of

the encryption key, is needed based on performing error detection.

However, Doberstein et al. teaches determining when a request for retransmission, because of an error occurred in connection with the reception of a message, is needed based on performing error detection (see column 3 lines 3-19).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to determining when a request for retransmission, because of an error occurred in connection with the reception of the encryption key in the modified Schneier, Parry, and Amitay et al. system, is needed based on performing error detection.

Motivation to do so would have been because doing so allows the system to make a request for retransmission of data so that the encryption key can still be built even if data is initially not received properly.

10. Claims 28, 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Schneier, Parry, and Amitay et al. system as applied to claims 21 and 30 above, and further in view of Clough et al. (US 20030054766).

As per claims 28, 38 and 39, the modified Schneier, Parry, and Amitay et al. system fails to explicitly disclose the use of RF signals for communication between the devices.

However, Clough et al. teaches the use of RF signals for communication (see paragraph 13).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use RF signals in the modified Schneier, Parry, and Amitay et al. system.

Motivation to do so would have been to allow for long distance communications.

Response to Arguments

11. Applicant's arguments with respect to claims 21-40 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL PYZOSKA whose telephone number is (571)272-3875. The examiner can normally be reached on 7:00am - 4:30pm first Fridays of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the

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organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJP

/Emmanuel L. Moise/
Supervisory Patent Examiner, Art Unit 2137